IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12043 of 2004

Between:

Meka Baburao Late Suranna
Mandapeta (M) E.G.District.

..... PETITIONER

AND

1 The District Collector, E.G.District at Kakinada.
2 The Revenue Divisional Officer, Rajahmundry, E.G.District.
3 The Mandal Revenue Officer, Mandapeta, E.G.District.
4 The Gram Panchayat Yedida, rep. by its Village Secretary, Yedida E.G.District.
5 Smt.Kommoju Manikumari W/o. Satyanarayana R/o. Ydida (V)

Mandapeta (M), E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the order/endorsement in Ref.E3/5726/2003 dt.15.6.2004 passed by the 1st respondent allowing the 5th respondent to continue the construction work on the representation made by her as illegal, arbitrary and in violation of principles of natural justice and consequently set aside the above endorsement dt.15.6.2004 granting permission for construction of the house by the 5th respondent at Yedida (V) Mandapeta (M) E.G.District.

Counsel for the Petitioner: MR.K.VENKATESH

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE

Counsel for the Respondent No.5: Mr.Seetharam Chaparla

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12043 OF 2004

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ORDER:

The petitioner is resident of Yedida village, Mandapet Mandal of East Godavari District. He claims that he is the owner of a tiled house bearing door No.9-126 and the appurtenant site. It appears fifth respondent herein purchased an extent of 130 square yards from Godavarthi Suryanarayana under registered sale deed dated 24.03.2004. It is the case of the petitioner that the vendor of the fifth respondent also included 10 square yards of land allegedly belonging to the petitioner as well as 30 square yards allegedly belonging to fourth respondent Gram Panchayat forming part of the land demised under the sale deed in favour of the fifth respondent. Be that as it is, the petitioner made a representation to the first respondent as well as the fourth respondent for redressal of the grievance and also prayed to direct the fifth respondent to stop construction. The petitioner also alleges that acting on the representation, first respondent also directed the third respondent to stop construction being made by the fifth respondent. Subsequently, petitioner alleges that without any notice and without conducting any enquiry, first respondent issued the impugned endorsement dated 15.06.2004, which reads as under:

The petitioner Smt.Kommoju Mani Kumar, W/o Satyanarayana of Yedida can take up construction of house in the site purchased by her leaving 3 ½ feet (2 feet site Meka Babu Rao and 1 ½ feet site of Mani Kumari). It should be noted that no construction should be taken up in the said disputed site of 3 ½ feet what so ever.

The above endorsement is assailed in the writ petition.

This Court while admitting the writ petition on 14.07.2004 directed *status quo* to be maintained as on that date with regard to construction. The fifth respondent filed application being W.V.M.P.No.2000 of 2004 praying this Court to vacate the interim order. At this stage itself, the matter was heard finally with the consent learned Assistant Government Pleader for respondents 1 to 4 and the learned counsel for fourth respondent.

In the counter affidavit filed by the fifth respondent, it is stated that on the representation made by the petitioner, the Mandal Revenue Officer enquired into the matter, in which the petitioner participated and thereafter the District Collector issued impugned endorsement. The allegation made by the petitioner that the vendor of the

fifth respondent sold the private land as well as the Gram Panchayat land under sale deed is denied. It is further stated that in the enquiry conducted by Mandal Revenue Officer, it was reported that two square yards of land belonging to the petitioner was only included in the sale deed of the fifth respondent and basing on such report, the District Collector directed the fifth respondent to leave 3½ feet (1½ feet width of the fifth respondent and 2 feet width of the petitioner) and take up construction as per the Rules. It is also stated that the fifth respondent obtained necessary permission from Gram Panchayat for construction of house and that he has not encroached upon the Gram Panchayat land, which was also found by the third respondent during the enquiry.

On an analysis of the petitioner's case, it becomes clear that the petitioner essentially is aggrieved by the alleged action of the vendor of the fifth respondent in including the land of the petitioner as well as the Gram Panchayat land. Insofar as these two aspects are concerned, the matter was enquired into by the Mandal Revenue Officer and the fifth respondent does not dispute the report. If the petitioner still has any grievance with regard to area demised to the fifth respondent by her vendor, the dispute is essentially in the realm of private law and petitioner has to seek redressal before a common law court. Indeed as rightly agreed upon by all the learned counsel, it was not within powers of the revenue officials including the first respondent to adjudicate these issues. The fifth respondent, it is not denied – has obtained permission from the Gram Panchayat, Yedida and also constructed house. The petitioner, therefore, cannot have any redressable grievance by invoking public law remedy. Liberty is given to the petitioner to approach appropriate competent civil Court for redressal, if any.

The writ petition is misconceived and is accordingly dismissed with the above observations.

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(V.V.S.RAO,J)

29.09.2004.

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To

1. The District Collector, East Godavari District at Kakinada.
2. The Revenue Divisional Officer, Rajahmundry, East Godavari Dist.
3. The Mandal Revenue Officer, Mandapeta, East Godavari dist.
4. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
5. 2 CD copies.